

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS**

68-0157 (9-06) - 3091078 - EI

**VERENIS VILLA-RODRIGUEZ**  
Claimant

**APPEAL NO. 17A-UI-11220-S1-T**

**ADMINISTRATIVE LAW JUDGE  
DECISION**

**TARGET CORPORATION**  
Employer

**OC: 09/24/17**  
**Claimant: Appellant (1)**

Section 96.5-2-a – Discharge for Misconduct

**STATEMENT OF THE CASE:**

Verenis Villa Rodriguez (claimant) appealed a representative's October 24, 2017, decision (reference 01) that concluded she was not eligible to receive unemployment insurance benefits after her separation from employment with Target Corporation (employer). After hearing notices were mailed to the parties' last-known addresses of record, a telephone hearing was scheduled for November 20, 2017. The claimant participated personally. The employer participated by Sarah Mackey, Human Resources Business Partner; Zachary Pena, Inbound Operation Manager; and Rory MacLearn, Warehousing Operations Manager.

**ISSUE:**

The issue is whether the claimant was separated from employment for any disqualifying reason.

**FINDINGS OF FACT:**

The administrative law judge, having heard the testimony and considered all of the evidence in the record, finds that: The claimant was hired on August 30, 2016, as a full-time warehouse worker. The claimant signed for receipt of the employer's handbook on August 30, 2016.

On June 23, 2017, the employer issued the claimant a written warning for failure to appear for work or tell the employer within two hours of the start of her shift on June 21, 2017, she would be absent. The claimant was notified a week in advance that she was scheduled to work overtime hours on June 21, 2017. The employer told the claimant that further infractions could result in another warning. On August 18, 2017, the employer issued the claimant a written warning for quality and reliability issues with her performance. The employer told the claimant that further infractions could result in another warning.

On August 28, 2017, the employer issued the claimant a written warning for failure to appear for work or tell the employer within two hours of the start of her shift on August 23, 2017, she would be absent. The claimant requested to work overtime hours and was notified a week in advance

that she was scheduled to work overtime hours on August 23, 2017. The employer told the claimant that further infractions could result in termination from employment.

On September 27, 2017, the claimant failed to appear for work or tell the employer within two hours of the start of her shift she would be absent. The claimant requested to work overtime hours and was told a week in advance she was scheduled to work overtime hours on September 27, 2017. On September 29, 2017, the employer terminated the claimant for excessive absenteeism without notice.

### **REASONING AND CONCLUSIONS OF LAW:**

For the reasons that follow the administrative law judge concludes the claimant was discharged for misconduct.

Iowa Code section 96.5(2)a provides:

An individual shall be disqualified for benefits, regardless of the source of the individual's wage credits:

2. Discharge for misconduct. If the department finds that the individual has been discharged for misconduct in connection with the individual's employment:

a. The disqualification shall continue until the individual has worked in and has been paid wages for insured work equal to ten times the individual's weekly benefit amount, provided the individual is otherwise eligible.

Iowa Admin. Code r. 871-24.32(7) provides:

(7) Excessive unexcused absenteeism. Excessive unexcused absenteeism is an intentional disregard of the duty owed by the claimant to the employer and shall be considered misconduct except for illness or other reasonable grounds for which the employee was absent and that were properly reported to the employer.

The determination of whether unexcused absenteeism is excessive necessarily requires consideration of past acts and warnings. The term "absenteeism" also encompasses conduct that is more accurately referred to as "tardiness." An absence is an extended tardiness, and an incident of tardiness is a limited absence. Absences related to issues of personal responsibility such as transportation, lack of childcare, and oversleeping are not considered excused. *Higgins v. Iowa Department of Job Service*, 350 N.W.2d 187 (Iowa 1984).

An employer is entitled to expect its employees to report to work as scheduled or to be notified when and why the employee is unable to report to work. The employer has established that the claimant was warned that further unexcused absences could result in termination of employment and the final absence was not excused. The final absence, in combination with the claimant's history of unexcused absenteeism, is considered excessive. Benefits are withheld.

**DECISION:**

The representative's October 24, 2017, decision (reference 01) is affirmed. The claimant is not eligible to receive unemployment insurance benefits because the claimant was discharged from work for misconduct. Benefits are withheld until the claimant has worked in and has been paid wages for insured work equal to ten times the claimant's weekly benefit amount provided the claimant is otherwise eligible.

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Beth A. Scheetz  
Administrative Law Judge

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Decision Dated and Mailed

bas/rvs